

***PROPOSED ADDITION OF RULE 216.5
AND PROPOSED AMENDMENT TO RULE 803
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA***
[Additions in **Bold**; Deletions in ~~Strikeout~~]

[NEW] RULE 216.5. VICTIM'S DECLARATION

- (a) Any person who has been harmed by conduct of the respondent that is the subject of the pending proceeding may submit a written statement setting forth the nature and extent of that harm and the manner in which respondent's conduct caused the harm.**
- (b) Once a finding of culpability of the respondent is made, victims' written statements must be admitted into evidence. Upon the respondent's showing of good cause, the Court may require the Office of the Chief Trial Counsel to produce the victim(s) at the mitigation/aggravation phase of the hearing for purposes of cross-examination by the respondent.**

RULE 803. DISPOSITION; DEFERRAL OF IMPOSITION

- (a) If a respondent seeking to participate in the Program has entered into a stipulation as to facts and conclusions of law in the pending disciplinary proceeding and has agreed to or has fulfilled all of the other conditions for the respondent's participation in the Program, the Program Judge shall provide the respondent with a written statement regarding (1) the disposition that will be implemented or recommended to the Supreme Court in the event that the respondent successfully completes the Program; and (2) the disposition that will be implemented or recommended to the Supreme Court based upon the stipulated facts and conclusions of law, if the respondent does not successfully complete the Program. Depending upon the extent and severity of the respondent's stipulated misconduct, including the degree of harm suffered by his or her client(s), the disposition implemented or recommended following successful completion of the Program may range as low as the dismissal of the charges or proceeding and, as a result of termination from the Program, may range as high as disbarment.**
- (b) Any person who has been harmed by the stipulated conduct of the respondent may submit a written statement setting forth the nature and extent of the harm caused by the respondent's conduct. The Program Judge must consider the victims' written statements in determining the degree of harm suffered by the respondent's client(s) and in determining the appropriate dispositions to be implemented or recommended in the proceeding.**

- ~~(b)~~ (c) If the respondent is accepted for participation in the Program, the stipulation as to facts and conclusions of law shall be filed but the proposed disposition shall not be implemented or transmitted as a recommendation to the Supreme Court until the respondent either successfully completes the Program or is terminated from the Program.
- ~~(e)~~ (d) If the respondent is accepted for participation in the Program, and the proposed disposition that will be recommended to the Supreme Court in the event that the respondent successfully completes the Program involves a period of actual suspension of 90 days or more, there is a presumption that the respondent should be placed on inactive enrollment for the protection of the public or of the respondent's clients. In such cases, the Program Judge must immediately place the respondent on inactive status unless the Program Judge finds, in writing, that such inactive enrollment is not necessary for the protection of the public or of the respondent's clients.